



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/01730/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at: Manchester CJC**

**Decision and Reasons**

**Promulgated**

**On: 9 April 2018**

**On 11 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**M A A A B**

**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: None

For the respondent: Mr Bates, Senior Home Office Presenting Officer

**DECISION AND REASONS**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant.*

1. I have made an anonymity order because this decision refers to the appellant's asylum claim and medical evidence relevant to his vulnerability.
2. The appellant, a citizen of Iraq, has appealed against a decision of the First-tier Tribunal dated 15 August 2017 in which it dismissed an

appeal against the decision of the respondent refusing his international protection claim.

3. The First-tier Tribunal treated the appellant as a vulnerable appellant as did I when he appeared before me. The appellant was assisted before me by Ms Hill, a social worker and her trainee social worker. I am grateful to them for their assistance. Unfortunately, there was no interpreter to explain the proceedings to the appellant, but Ms Hill communicated on behalf of the appellant that he relied upon the grounds of appeal and wished to challenge the First-tier Tribunal decision. Ms Hill also assured me that she would explain what happened at the brief hearing to the appellant with the use of an interpreter by telephone.
4. Although there was no interpreter, I did not consider that fairness required an adjournment of the hearing. This is because Mr Bates sensibly and realistically conceded there was an error of law in the First-tier Tribunal decision, such that it should be set aside and remitted to the First-tier Tribunal.
5. Mr Bates accepted that in an otherwise carefully drafted decision, the First-tier Tribunal failed to consider for itself whether the appeal should be adjourned in light of the available medical evidence, and that there had been procedural unfairness.
6. In a letter dated 17 July 2017 (some three weeks before the First-tier Tribunal hearing) Dr Farrington, a GP with the Greater Manchester Mental Health Trust, described the appellant in these terms:

“On examination, he was clearly having difficulty concentrating today. He was disassociative at times and agitated by the distracting intrusive thoughts in his head. He is clearly not functioning well at present and I am concerned he is not in a fit state to attend his court hearing.”
7. This letter was provided alongside an adjournment request dated 3 August 2018. The First-tier Tribunal refused this request on the papers on 7 August 2018, observing that there had already been delay and the appellant had been given considerable time to obtain representation. The decision did not address the GP’s concern that the appellant was not in a fit state to attend his court hearing.
8. When the matter came before the First-tier Tribunal on 8 August 2017, it is clear from [1] and [29] of its decision that the First-tier Tribunal was aware of Dr Farrington’s letter. At [3] the First-tier Tribunal appears to have satisfied itself that the appellant was well enough to proceed but has provided no reasons for this. In particular, the First-tier Tribunal did not address that relatively recently a GP with specialist experience in mental health matters was concerned that the appellant was not fit to attend a court hearing.

9. Mr Corden accepted that the medical evidence together with the appointment with solicitors on 29 August 2017 was such that procedural fairness required an adjournment, and this remained the case notwithstanding the appellant's indication that he wished to proceed. As First-tier Tribunal Judge MJ Gillepsie observed when granting permission on the papers, it is questionable whether much weight ought to have been given to the appellant's willingness to proceed with the hearing unassisted by legal representation, given the medical evidence available. After all, just a matter of days before the hearing the appellant had made a written handwritten request for an adjournment, and there had been no obvious change in circumstances. The decision does not indicate any probing into this issue or explain how the First-tier Tribunal satisfied itself that the appellant was "engaged at all times".
10. I am satisfied that Mr Bates was entirely correct to concede an error of law was made such that the decision must be set aside, for the reasons I have summarised above.
11. Both representatives agreed that the decision should be remade by the First-tier Tribunal. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the First-tier Tribunal.
12. I am very concerned that this is a case in which the appellant continues to have no legal representation. He is clearly a vulnerable person and has made an international protection claim. He and the Tribunal would be greatly assisted by experienced solicitors with the benefit of a legal aid contract, representing him. Immediate steps should be taken by such solicitors or his social workers to obtain updated medical evidence addressing the appellant's capacity to provide evidence at a hearing and any other relevant matters concerning his mental health.

## **Decision**

13. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
14. The appeal shall be remade by First-tier Tribunal de novo.

Signed: Ms Melanie Plimmer  
Judge of the Upper Tribunal

Dated: 9 April 2018